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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,119	01/17/2004	Qin Chen	130-040	7348

7590
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04/19/2007

EXAMINER

TOOMER, CEPHIA D

ART UNIT	PAPER NUMBER
1714	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/19/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/760,119

Applicant(s)

CHEN ET AL.

Examiner

Cephia D. Toomer

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-133 is/are pending in the application.
- 4a) Of the above claim(s) 99-133 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-98 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 99-133 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on January 23, 2007.

Specification

2. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 13, 32, 79 and 94 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are rejected because it is not clear how compositions contain a co-binder when it has not been set forth that a binder is present. Clarification and correction are required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 3-8 and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Tao (US 6,497,735).

Tao teaches a vegetable lipid composition comprising 51-100 % by weight a of triglyceride or a free fatty acid/triglyceride mixture and up to 49% by wt of a petroleum wax (see abstract; col. 1, lines 54-65). The petroleum wax having a melting point of 50-85 °C may be paraffin or microcrystalline (see col. 2, lines 2-4; col. 4, lines 36-48). The triglycerides may be fully hydrogenated and the fatty acids are preferably saturated (see col. 3, lines 5-7). The vegetable lipid-based compositions begin to soften around 59 °C (see col. 5, lines 31-41). Tao teaches that the composition may contain UV absorbers, antioxidants, odorants and colorants (see col. 5, lines 4-14). It should be noted that Applicant's intended use is given no patentable weight.

Accordingly, Tao teaching all the limitations of the claims anticipates the claims.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

Art Unit: 1714

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tao (US 6,497,735).

Tao has been discussed above. Tao fails to teach the iodine number and the color speckles. However, it would have been obvious to one of ordinary skill in the art to optimize the triglyceride/fatty acid to obtain the desired Iodine number in order to produce a solid candle.

With respect to the color speckles, Tao teaches that colorants are used in the invention. To select color speckles as the colorant is merely a design choice and does not impart patentability to the claims.

9. Claims 9, 13, 37-47 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tao in view of Anderson (US 6,599,334).

Tao has been discussed above. Tao fails to teach the use of a binder. However, Anderson teaches this difference in a soybean wax composition.

It would have been obvious to one of ordinary skill in the art to employ the synthetic waxes of Anderson because he teaches that the waxes bind and disperse the fragrance through the candle composition, hardens the candle and reduce the formation of air bubbles (see col. 6, lines 31-35).

10. Claims 14-18, 20-37, 29-31, 33-36, 69-74, 76-78, 84-89 and 91-93 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tao in view of Marcus (US 4,568,270).

Tao has been discussed above. Tao fails to teach that the candle of his invention is encased with a layer of petroleum wax. However, Marcus teaches this difference.

Marcus teaches a candle comprising an outer shell wherein the shell is formed of paraffin wax (see abstract). The shell has a melting point within the range of 139-145 F (59-63 C) (see col. 3, lines 2-3). Marcus teaches that the shell has a cross-sectional area that is smaller than the core (see col. 3, lines 50-67). Marcus teaches that the shell may be formed through dripping or molding the shell around the core (see col. 4, lines 51-56).

It would have been obvious to one of ordinary skill in the art to encase the claimed candle in petroleum wax because Marcus teaches that encasing a candle provides structural support for the candle.

With respect to claims 21, 36, 72 and 87, it would have been obvious to one of ordinary skill in the art to optimize the triglyceride/fatty acid to obtain the desired Iodine number in order to produce a solid candle.

11. Claims 28, 32, 48-52, 54-68, 75, 79-83, 90 and 94-98 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tao, Marcus and Anderson.

Tao has been discussed above. Tao fails to teach that the candle of his invention is encased with a layer of petroleum wax. However, Marcus teaches this difference.

Marcus teaches a candle comprising an outer shell wherein the shell is formed of paraffin wax (see abstract). The shell has a melting point within the range of 139-145 F

Art Unit: 1714

(59-63 C) (see col. 3, lines 2-3). Marcus teaches that the shell has a cross-sectional area that is smaller than the core (see col. 3, lines 50-67). Marcus teaches that the shell may be formed through dripping or molding the shell around the core (see col. 4, lines 51-56).

It would have been obvious to one of ordinary skill in the art to encase the claimed candle in petroleum wax because Marcus teaches that encasing a candle provides structural support for the candle.

Tao fails to teach the use of a binder. However, Anderson teaches this difference in a soybean wax composition.

It would have been obvious to one of ordinary skill in the art to employ the synthetic waxes of Anderson because he teaches that the waxes bind and disperse the fragrance through the candle composition, hardens the candle and reduce the formation of air bubbles (see col. 6, lines 31-35).

With respect to claim 55, it would have been obvious to one of ordinary skill in the art to optimize the triglyceride/fatty acid to obtain the desired Iodine number in order to produce a solid candle.


12. The prior art made of record and not relied upon is cited for teaching the general state of the art and is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cephia D. Toomer whose telephone number is 571-272-1126. The examiner can normally be reached on Monday-Thursday.

Art Unit: 1714

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Cepha D. Toomer
Primary Examiner
Art Unit 1714

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